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6 Attorneys for Defendant
VISA INC., a Delaware corporation
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 THE WAVE STUDIO, LLC, a New York
13 Limited Liability Corporation,

14 Plaintiff,

15 v.

16 VISA INC., a Delaware corporation, and
DOES 1-100,

17 Defendants.
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Case No. 3:15-cv-000239-JSC

Honorable Magistrate
Judge Jacqueline Scott Corley

**DECLARATION OF
JONATHAN W. FOUNTAIN**

1 I, Jonathan W. Fountain, state the following:

2 1. I am an employee of Lewis Roca Rothgerber LLP, counsel for Defendant Visa,
3 Inc. in this action. Unless expressly stated otherwise, I have personal knowledge of the facts set
4 forth herein and I am competent to testify.

5 2. Attached hereto as Exhibit A is a true and accurate copy (minus exhibits) of the
6 First Amended Complaint filed in *The Wave Studio, LLC v. General Hotel Management Ltd., et*
7 *al.*, Case No. 7:13-cv-09239 (S.D.N.Y.) (the “New York Action”).

8 3. Attached hereto as Exhibit B is a true and accurate copy of the letter dated June
9 18, 2014, that General Hotel Management, Ltd. (“GHM”) filed in the New York Action at Doc.
10 No. 50.

11 4. Attached hereto as Exhibit C is a true and accurate copy of the court’s order
12 issued on July 3, 2014 in the New York Action filed as Doc. No. 67.

13 5. Attached hereto as Exhibit D is a true and accurate copy of the docket in *The*
14 *Wave Studio, LLC v. MasterCard International, Inc. et al.*, Case No. 3:14-cv-01342-RS (N.D.
15 Cal.) (the “MasterCard Action”).

16 6. Attached hereto as Exhibit E is a true and accurate copy of The Wave Studio,
17 LLC’s (“Wave’s”) Motion for Leave to Amend filed in the MasterCard Action as Doc. No. 31.

18 7. Attached hereto as Exhibit F is a true and accurate copy of the proposed Second
19 Amended Complaint Wave filed in the MasterCard Action as Doc. No. 31-1.

20 8. Attached hereto as Exhibit G is a true and accurate copy of the order issued by
21 District Judge Richard G. Seeborg transferring the Master Card Action to the Southern District
22 of New York, filed as Doc. No. 43.

23 9. At my direction, and under my supervision, my office conducted a comparison of
24 the specific hotels, copyright registrations, and images at issue in the New York Action and the
25 specific hotels, copyright registrations, and images at issue in this action.


26 10. Based upon our review, the same hotels and copyright registrations are at issue in
27 the two cases. Put more simply, 100% of the hotels and copyright registrations at issue in this
28 case are also at issue in the New York Action.

DECLARATION OF JONATHAN W. FOUNTAIN

1 11. In addition, of the 45 or 46 images Wave alleges have been infringed in this
2 action, Wave has alleged that 26 of those same images have been infringed by GHM and others
3 and are currently at issue in the New York Action. Thus, approximately 56-58% of the images at
4 issue in this action are also at issue in the New York Action.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed on: May 18, 2015

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9 Jonathan W. Fountain

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